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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,021	09/15/2003	Wesley W. Potter	2472-69-CON-5	2528
22442	7590	04/16/2004	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			PARSLEY, DAVID J	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 04/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/663,021

**Applicant(s)**POTTER ET AL. **Examiner**

David J Parsley

**Art Unit**

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 4-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9-15-03</u> | 6) <input type="checkbox"/> Other: _____  |

## **Detailed Action**

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 1-3 and 10 in the paper dated 3-5-04 is acknowledged. The traversal is on the ground(s) that the method and apparatus claims would not require a separate search. This is not found persuasive because as seen in the previous office action dated 2-23-04 the method and apparatus claims are classified in different subclasses and therefore would require separate/different searches.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

2. The disclosure is objected to because of the following informalities: on page 5 lines 2-10 there is no description of drawing figures 1a, 1b, 2a, 2b, 3a, 3b, 4a, 4b, 5a and 5b.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-3 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "fabricated" in line 2 of claims 1 and 10 is indefinite in that it implies that the bovine animal is being constructed/built. These claims should read - -fabricated into meat sections- - as seen in applicant's disclosure.

Claims 2-3 depend from rejected claim 1 and include all of the limitations of claim 1 thereby rendering these dependent claims indefinite.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3 and 10 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 of U.S. Patent No. 6,712,685 to Potter et

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al. in view of Potter et al. The above identified claim of applicant's patent U.S. 6,712,685 sets forth all of the method limitations/steps as claimed except separately processing the first waste stream and spraying the depilatory substance on the animal's hair as related to claim 10. Potter et al. further discloses separately processing the first waste stream – see for example column 9 lines 61-67 and column 10 lines 1-22. Therefore it would have been obvious to one of ordinary skill in the art to take the method of removing hair from animals of Potter and add the step of separately processing the first waste stream of Potter, so as to maximize the recycling and reuse of various components in the waste stream.

Further, Potter discloses spraying the depilatory substance onto the animal's hair – as seen in column 5 lines 26-45 and column 6 lines 25-30. Therefore it would have been obvious to one of ordinary skill in the art to take the method of removing hair from animals of Potter and add the depilatory substance being sprayed onto the animal's hair of Potter, so as to allow for the entire surface of the animal to be covered by the depilatory substance.

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to show the state of the art with respect to animal depilation methods in general:

U.S. Pat. No. 3,706,333 to Ammerman – shows sodium hydroxide substance

U.S. Pat. No. 3,806,616 to Mencacci – shows spraying substance on carcass

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U.S. Pat. No. 3,865,546 to Zemlin – shows hair-removing method

U.S. Pat. No. 3,981,681 to de la Guardia – shows hair-removing method

U.S. Pat. No. 4,830,633 to Hori et al. – shows hair-removing method

U.S. Pat. No. 5,026,542 to Baines et al. – shows hair-removing method

U.S. Pat. No. 5,520,575 to Dickson – shows sodium hydroxide applied to animal

U.S. Pat. No. 5,632,676 to Kurschner – shows sodium hydroxide on animal

U.S. Pat. No. 5,863,244 to Mansfield – shows sodium hydroxide

U.S. Pat. No. 5,897,857 to Hillebrand – shows hair-removing method

U.S. Pat. No. 6,094,594 to Tapper – shows hair-removing method

U.S. Pat. No. 6,592,444 to Potter – shows hair-removing method

DD Pat. No. 284695 to Gregor et al. – shows sodium hydroxide applied to animal

6. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.



Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600